

(1903) 06 CAL CK 0026
In the Calcutta High Court
Case No : No. 475 of 1901

Deoki Singh and others

APPELLANT

Vs

Lakhan Roy and others

RESPONDENT

Date of Decision : 12-06-1903

Acts Referred:

Citation : (1903) 06 CAL CK 0026

Judgement

1. The Plaintiffs and their co-sharer Defendants obtained a zuripeshgi lease from the proprietors, who are the registered holders of a 3 annas odd share in three villages. By an amicable arrangement between all the proprietors, the Plaintiffs' lessors obtained a 10 annas share in one of the villages and a 5 annas share in another in lieu of the said 3 annas odd share in all 3 mouzahs. The Plaintiffs sued for arrears of rent as for a 10 annas share in one village and 5 annas in another which has been dismissed on the ground that the suit is not maintainable under sec. 78 of the Land Registration Act, although the Defendants have been paying rent on that basis without objection for many years. We think that the view taken by the Subordinate Judge is not correct. The Act while providing for the registration by proprietors of their shares in an estate does not make it incumbent upon them to register their shares in specific mouzahs or other portions of land within the estate.

2. The Plaintiffs as well as their lessors have been duly registered with respect to a 3 annas odd share, in all 3 mouzahs comprising the estate, and they have therefore complied with the requirements of sec. 42 of the Land Registration Act, and their position is not affected by the fact that under an amicable arrangement their shares have been differently allocated so as to give them larger shares in two mouzahs than their registered interest and no share at all in the third mouzah.

3. The same view was taken by another Division Bench of this Court in second Appeal No. 2083 of 1900 decided on the 21st May 1903. The decree of the lower Appellate Court is set aside and that of the Munsif is restored with costs

throughout.